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Person To Contact: _____, ID No. _____

Telephone Number:

In Re:

Refer Reply To:
CC:CORP:B01
PLR-132683-06
Date:
August 01, 2006

Legend

Parent =

New Parent =

MergerSub =

LLC =

Business A =

Business B =

Business C =

A Stock =

B Stock =

Group 1 =

Group 2 =

State A =
Act =

Date A =

a =

b =

c =

d =

e =

f =

Series A Group 1 Stock =

Series A Group 2 Stock =

Series B Group 1 Stock =

Series B Group 2 Stock =

Dear :

This responds to your letter dated April 28, 2006, and subsequent correspondence, requesting that we supplement our letter ruling dated April 24, 2006 (PLR-107629-06) (the "Ruling").

FACTS

Section 3.01(33) of Revenue Procedure 2006-3, 2006-1 I.R.B. 122, provides that the Service will not rule on the qualification of a transaction as a reorganization under section 368(a)(1)(F) of the Code unless the Service determines that there is a

significant issue that is not clearly and adequately addressed by published authority. If the Service determines that there is a significant issue, and to the extent the transaction is not described in another no-rule section, the Service will rule on the entire transaction, and not just the significant issue. The taxpayer requested guidance addressing the significant issue of whether a proposed corporate restructuring (the "Restructuring") would result in a deemed exchange of Parent's debt pursuant to section 1001. The Ruling concluded that the Restructuring would not result in a significant modification of the Debt for purposes of §1.1001-3(e) of the Income Tax Regulations. The taxpayer has requested supplementary rulings regarding the qualification of the Restructuring as a reorganization under section 368(a)(1)(F).

Parent is a State A publicly-traded corporation and the common parent of an affiliated group of corporations that files a consolidated federal income tax return. Parent, directly and through its subsidiaries, engages in Businesses A, B, and C, both within the United States and internationally. Parent currently has outstanding two series of common stock, the "A Stock" and the "B Stock." Each share of A Stock entitles its holder to a votes; each share of B Stock entitles its holder to b votes.

On Date A, Parent completed the Restructuring to create separate series of common stock that are intended to track the economic performance of two operational groups, Group 1 and Group 2. Parent effected the Restructuring in order to (i) enable investors and analysts to better focus on the assets and businesses of each group, thereby facilitating greater market recognition of the value of each group of assets and of Parent as a whole, (ii) provide greater future flexibility in raising capital and responding to strategic opportunities, including acquisitions, and (iii) allow investors to invest in either or both series of stock on the basis of their particular investment objectives.

Solely for the purpose of effecting the Restructuring, Parent formed two new State A subsidiaries, New Parent and MergerSub. Prior to the Restructuring, neither New Parent nor MergerSub held any property or assets, was subject to any liabilities, or had any tax attributes (including those specified in section 381(c)), except as related to a nominal amount of cash contributed to each entity to facilitate its organization and certain agreements intended to facilitate the Restructuring.

In the Restructuring, MergerSub merged with and into Parent, with Parent as the surviving corporation (the "Merger"). In the Merger, each outstanding share of A Stock was converted into and exchanged for c shares of New Parent Series A Group 1 Stock and d shares of New Parent Series A Group 2 Stock; each share of B Stock was converted into and exchanged for c shares of New Parent Series B Group 1 Stock and d shares of New Parent Series B Group 2 Stock; each share of common stock of MergerSub was converted into and became one share of common stock of the surviving corporation (Parent); and the nominal amount of stock of New Parent issued to Parent prior to the Merger in order to facilitate New Parent's organization was cancelled. The shareholders of New Parent have the same proportionate ownership, by vote and value,

of New Parent through the four series of common stock (collectively, the "New Parent common stock") as their proportionate ownership, by vote and value, of Parent immediately prior to the Restructuring, except to the extent of any change in ownership caused by the issuance of cash in lieu of fractional shares of New Parent common stock. Prior to the Restructuring, holders of B Stock had the right to convert each share of such stock into A Stock. As a result of the Restructuring, holders of Series B Group 1 and Group 2 Stock have the right to convert each share of such stock into Series A Group 1 or Group 2 Stock, respectively. Following the first anniversary of the Restructuring, New Parent will have the option to convert each series of Group 1 Stock into a number of shares of the corresponding series of Group 2 Stock. At the time of the Restructuring, New Parent had no plan or intention to exercise this conversion right.

Immediately following the Merger, Parent converted into a single-member State A limited liability company (LLC) by filing a certificate of conversion under the Act. The conversion of Parent into LLC did not involve the formation or merger of Parent with or into a new legal entity. After the Restructuring, New Parent held all of the membership interests in LLC, a limited liability company that is disregarded as separate from its owner under §301.7701-3(b)(1)(ii) of the procedural regulations. Immediately after the restructuring the assets and liabilities of LLC were identical to the assets and liabilities of parent immediately prior to the restructuring, except for cash issued in lieu of fractional shares and cash used to pay expenses in connection with the restructuring.

New Parent's board of directors has authorized a share repurchase program pursuant to which shares of outstanding New Parent common stock may be repurchased by New Parent from time to time following the Restructuring in the open market or in privately negotiated transactions, subject to market conditions, up to a maximum aggregate purchase price for all shares of Group 2 stock so purchased of \$e and up to a maximum aggregate purchase price for all shares of Group 1 stock so purchased of \$e (the "Share Repurchase Program"). Any shares of New Parent common stock that are purchased in the open market pursuant to the Share Repurchase Program will be purchased through a broker for the prevailing market price, and New Parent will not know the identity of a seller of New Parent common stock, nor will the seller of New Parent common stock know that New Parent is the buyer.

REPRESENTATIONS

The taxpayer has made the following representations:

- a) The New Parent common stock constitutes stock of New Parent for federal income tax purposes.
- b) The fair market value of the New Parent common stock and other consideration received by each Parent shareholder was approximately equal to the fair market value of the Parent stock surrendered in exchange therefore.

- c) Immediately following the consummation of the Restructuring, the shareholders of Parent owned all of the outstanding New Parent stock and owned such stock solely by reason of their ownership of Parent stock immediately prior to the Restructuring.
- d) At the time of the Restructuring, New Parent had no plan or intention to issue additional shares of its stock following the Restructuring, except for (i) issuances of approximately \$1² worth of equity or equity-linked securities following the Restructuring in order to refinance debt and/or fund possible acquisitions, (ii) issuances to satisfy employee options, (iii) issuances to satisfy any optional conversion by a holder of Series B stock into Series A stock, and (iv) issuances of shares of restricted New Parent common stock that were not yet treated as outstanding for federal income tax purposes at the time of the Restructuring.
- e) Assets distributed to shareholders, assets used to pay expenses and all redemptions and distributions (except for regular, normal dividends) made by Parent immediately preceding the Restructuring, in the aggregate, constituted less than one percent of the net assets of Parent. There were no dissenting shareholders.
- f) At the time of the Restructuring, Parent had no outstanding warrants, options, convertible securities or any other type of right pursuant to which any person could acquire stock in Parent, except for (i) options to purchase shares of Parent common stock that were granted pursuant to Parent incentive compensation plans, (ii) options of holders of Series B stock to convert such stock into Series A stock, and (iii) shares of restricted New Parent common stock that were not yet treated as outstanding for federal income tax purposes at the time of the Restructuring.
- g) Except in connection with the Share Repurchase Program, at the time of the Restructuring, there was no plan or intention for New Parent or any related person (as defined in §1.368-1(e)(4)) to reacquire any of the New Parent common stock issued in the Restructuring.
- h) The liabilities of Parent treated as assumed by New Parent plus the liabilities, if any, to which the transferred assets were subject were incurred by Parent in the ordinary course of its business and were associated with the assets transferred.
- i) The shareholders paid their respective expenses, if any, incurred in connection with the Restructuring.
- j) Parent was not under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).

- k) The payment of cash in lieu of fractional shares of New Parent common stock was solely for the purpose of avoiding the expense and inconvenience to New Parent of issuing fractional shares and did not represent separately bargained-for consideration. The total cash consideration that was paid in the Restructuring to the Parent shareholders instead of issuing fractional shares of New Parent common stock did not exceed one percent of the total consideration that will be issued in the restructuring to the Parent shareholders in exchange for their Parent stock. Fractional share interests of each Parent shareholder were aggregated, and no Parent shareholder received (i) cash in lieu of fractional shares of New Parent Group 1 common stock in an amount equal to or greater than the value of one full share of New Parent Group 1 common stock or (ii) cash in lieu of fractional shares of New Parent Group 2 common stock in an amount equal to or greater than the value of one full share of New Parent Group 2 common stock.
- l) None of the compensation received by any shareholder-employees of Parent was separate consideration for, or allocable to, any of their shares of Parent stock; except with respect to shares of restricted New Parent common stock received in respect of shares of restricted Parent stock, none of the shares of New Parent stock received by any shareholder-employees was separate consideration for, or allocable to, any employment agreement; and the compensation paid to any shareholder-employees was for services actually rendered and was commensurate with amounts paid to third parties bargaining at arm's-length for similar services.

RULINGS

Based solely on the information and the representations set forth herein, we rule as follows:

1. The Restructuring qualified as a reorganization within the meaning of section 368(a)(1)(F). Parent and New Parent were each "a party to the reorganization" under section 368(b).
2. The shareholders of Parent did not recognize any gain or loss upon their exchange of Parent stock for New Parent common stock in the Restructuring. Section 354(a).
3. Parent did not recognize any gain or loss upon the Restructuring. Sections 361(a) and 357(a).
4. New Parent did not recognize any gain or loss on the receipt of Parent's assets in the Restructuring. Section 1032(a).

5. The basis of the assets of Parent in the hands of New Parent was the same as the basis of such assets in the hands of Parent immediately prior to the Restructuring. Section 362(b).
6. The holding period of the Parent assets held by New Parent includes the period during which such assets were held by Parent. Section 1223(2).
7. The basis of the shares of New Parent common stock received by the Parent shareholders in the Restructuring was the same as the basis of the Parent shares surrendered in the exchange, allocated in accordance with section 358(b).
8. The holding period of the New Parent common stock received by the Parent shareholders included the period during which the Parent shares were held, provided that the shares were held as capital assets on the date of the exchange. Section 1223(1).
9. The taxable year of Parent did not close as of the date of the Restructuring, and such tax year continued in the name of New Parent. Section 1.381(b)-1; Rev. Rul. 57-276, 1957-1 C.B. 126.
10. Parent shareholders who received cash in lieu of fractional share interests in New Parent common stock in the Restructuring were treated as though such fractional share interests were distributed as part of the Restructuring and then were redeemed. The treatment of cash received by such shareholders was determined under § 302. Section 1.305-3; Rev. Proc. 77-41, 1977-2 C.B. 574.

CONCLUSION

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative. A copy of the Ruling and this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this

requirement by attaching a statement to their return that provides the date and control number of the letter rulings.

Sincerely,

Michael J. Wilder
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel
(Corporate)